



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2011-0328; FRL-9774-4]

**Approval and Promulgation of Air Quality Implementation Plans;
Minnesota; Flint Hills Resources Pine Bend**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving Minnesota's August 29, 2011, request to revise its sulfur dioxide (SO₂) State Implementation Plan (SIP) for Flint Hills Resources Pine Bend, LLC (FHR Pine Bend), in Dakota County. The facility is shutting down an incinerator, rerouting process gases, planning for a new boiler, and making other emission limit reductions. This revision will result in a decrease in SO₂ emissions.

DATES: This direct final rule will be effective [INSERT DATE 60 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER], unless EPA receives adverse comments by [INSERT DATE 30 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER]. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the Federal Register informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R05-OAR-2011-0328, by one of the following methods:

1. www.regulations.gov: Follow the on-line instructions for

submitting comments.

2. E-mail: blakley.pamela@epa.gov.

3. Fax: (312) 692-2450.

4. Mail: Pamela Blakley, Chief, Control Strategies Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

5. Hand Delivery: Pamela Blakley, Chief, Control Strategies Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 AM to 4:30 PM, excluding Federal holidays.

Instructions: Direct your comments to Docket ID No.

EPA-R05-OAR-2011-0328. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through www.regulations.gov or e-mail. The

www.regulations.gov website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through www.regulations.gov your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the www.regulations.gov index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago,

Illinois 60604. This facility is open from 8:30 AM to 4:30 PM, Monday through Friday, excluding Federal holidays. We recommend that you telephone Mary Portanova, Environmental Engineer, at (312)353-5954 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Mary Portanova, Environmental Engineer, Control Strategies Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312)353-5954, portanova.mary@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This supplementary information section is arranged as follows:

- I. What is the Background for this Action?
- II. Analysis
- III. What Action is EPA Taking?
- IV. Statutory and Executive Order Reviews.

I. What is the Background for this Action?

On August 29, 2011, Minnesota submitted a request to EPA to revise its SO₂ SIP for the FHR Pine Bend oil refinery in Rosemount, Dakota County. FHR Pine Bend is making modifications to its facility to improve energy efficiency and address plant safety. The facility will remove its Merox process incinerator, reroute process gases to an existing furnace, take additional restrictions on steam-air decoking activities for certain

boilers, revise the SO₂ emission limits for its fluid catalytic cracking unit, and add a boiler.

FHR Pine Bend is subject to an Administrative Order, which contains SO₂ emission limits and requirements which are intended to ensure the protection of ambient air quality. The provisions of the Administrative Order have been approved by EPA into the SO₂ SIP for FHR Pine Bend (72 FR 39568, July 19, 2007).

Minnesota amended the Administrative Order for FHR Pine Bend to provide for the facility's planned modifications, and submitted it to EPA on August 29, 2011, as a SIP revision request. The effective date of the amended Administrative Order was also August 29, 2011. In addition, Minnesota has issued FHR Pine Bend an amended permit (03700011-008, August 16, 2011). This permit contains SO₂ emission limits and related requirements for FHR Pine Bend.

After a routine plant safety review, FHR Pine Bend determined that there was a potential flameout risk with its Merox unit incinerator. The company decided to shut down the incinerator and reroute the gas streams it had burned to be either recycled or burned in an existing process heater (31H-2), depending on the mercaptan content of the gases. The Merox incinerator had previously handled gases from a sulfur recovery unit which is no longer in operation. Treating the smaller gas stream that it currently receives had caused the large Merox

incinerator to operate less efficiently. The process heater (31H-2) will be able to destroy the Merox off-gases using less additional fuel, resulting in lower emissions of SO₂, nitrogen oxides, carbon monoxide, and greenhouse gases. The SIP revision request includes revised SO₂ emission limits for the process heater (31H-2), in response to the heater's new input gas streams. The continuous emission monitor (CEM) currently on the Merox incinerator will be moved to the process heater (31H-2), to measure its SO₂ emissions. The SIP retains the ability for FHR Pine Bend to use the Merox incinerator temporarily, if it is needed while the gas streams are being rerouted, but the emission limit applicable to the Merox incinerator for this potential operation is approximately 700 tons per year (tpy) lower than its current emission limit. The Merox incinerator is to be permanently shut down after the gas stream rerouting is complete.

Other updates which are not related to the Merox incinerator shutdown are also included in the August 29, 2011 SIP revision request. First, FHR Pine Bend intends to apply for a permit to install a new boiler. Therefore, SO₂ emissions corresponding to a new boiler were included in the modeling analysis performed for this SIP revision request, based on the emissions and stack measurements of the plant's existing Boiler 9. To ensure that the company's SIP will continue to protect air quality after the addition of the new boiler, the Administrative Order prohibits

the company from operating the new boiler with stack and emission parameters different from those used in the dispersion modeling supporting the August 29, 2011 SIP revision request. Second, the SIP revision request includes an emission limit reduction of approximately 2700 tpy at the fluid catalytic cracking unit. The revised emission limit was chosen after a review of recent continuous emission monitoring data. Third, FHR Pine Bend is taking additional limits on its steam-air decoking activities for four heaters. These limits restrict the heaters from being decoked simultaneously. The decoking process uses steam, air, heat, and water to periodically remove coke buildup from process heater tubing. The decoking residues are directed into water-filled quench pits. The modeled emission rates from the decoking operations have been updated after engineering analyses at the plant. Fourth, the SIP revision request accounts for changes in the stack exit temperature of the oil separation and waste treatment plant's thermal oxidizer stack, which are expected after a convection stack/heat exchanger replacement is completed. The replacement will increase energy efficiency at the thermal oxidizer. Finally, additional revisions to the SIP address the facility's name change from Flint Hills Resources, LP, to Flint Hills Resources Pine Bend, LLC, and adjustments to numbering within the rule. Overall, the August 29, 2011 SIP revision provides for a reduction in SO₂ emissions of over 3100 tpy.

II. Analysis

Section 110(1) of the Clean Air Act states that the Administrator shall not approve a SIP revision if it would interfere with any applicable requirement concerning attainment of the national ambient air quality standards (NAAQS) and reasonable further progress. 42 U.S.C. 7410(1). The August 29, 2011 SIP revision for FHR Pine Bend represents an overall emissions decrease of over 3100 tpy of SO₂ emissions. The revision also provides for reductions in nitrogen oxides, carbon monoxide, and greenhouse gases from the shutdown of the Merox incinerator and the associated decrease in fuel usage.

The new operating scenario and new limits for FHR Pine Bend were evaluated and compared to the SO₂ NAAQS and to the previous SIP scenario using the EPA regulatory dispersion model AERMOD (version 09292), with meteorological data from 2000-2004 collected at the Minneapolis-St. Paul Airport. The comparative modeling results showed large reductions, up to approximately sixty percent, in predicted ambient SO₂ concentrations under the new operating scenario. The modeling analysis demonstrated attainment of the NAAQS for SO₂ (3-hour, 24-hour, and annual). The maximum predicted SO₂ concentrations including neighboring emission sources and a monitored background concentration were 517 micrograms per cubic meter (µg/m³) for the 3-hour average (compared to the SO₂ NAAQS of 1300 µg/m³); 172 µg/m³ for the 24-

hour average (compared to the SO₂ NAAQS of 365 µg/m³); and 35 µg/m³ for the annual average (compared to the SO₂ NAAQS of 80 µg/m³).

The dispersion modeling for this SIP revision request did not specifically address the 1-hour SO₂ NAAQS. There were difficulties in providing a full modeled 1-hour attainment demonstration for the FHR Pine Bend SIP revision request which were beyond FHR Pine Bend's control. Because the shutdown of the Merox incinerator addresses a safety issue, Minnesota submitted the SIP revision without waiting to complete a full 1-hour SO₂ modeling demonstration. Nonattainment area designations have not yet been promulgated nationally, so the 1-hour SO₂ SIP requirements for Dakota County have not yet been determined. The air quality monitors in Dakota County clearly show that the area is currently attaining the 1-hour SO₂ NAAQS. There are four SO₂ monitors located within three miles of the FHR Pine Bend facility. The SO₂ concentrations at all four monitors are well below the 1-hour SO₂ NAAQS. The highest of the four monitors' 2008-2010 design value concentrations was 20 parts per billion (ppb) (compared to the SO₂ NAAQS of 75 ppb). For the period 2009-2011, the highest of the four Dakota County monitors' design values was 19 ppb (both design values cited here are from the same monitor). This monitor is located less than one mile east of FHR Pine Bend. Minnesota has recommended that EPA designate

Dakota County "unclassifiable" for the 1-hour SO₂ NAAQS.

Minnesota must meet the applicable requirements for Dakota County's final SO₂ designation, which may include a modeled demonstration that the entire county will continue to maintain the 1-hour SO₂ NAAQS. In the meantime, given the significant SO₂ emission reductions in the FHR Pine Bend SIP revision submittal, and the fact that the new facility operating scenario has also resulted in reductions in modeled concentrations for the other short-term SO₂ standards, EPA believes that the August 29, 2011 SIP revision submittal does not endanger Dakota County's continued attainment of the 1-hour SO₂ NAAQS, and the SIP revision will provide progress toward any future requirements for a modeled demonstration of attainment of the 1-hour SO₂ NAAQS in Dakota County. It is important to note that future SIP revision requests or modifications at this or other SO₂-emitting facilities may be required to include full modeled attainment demonstrations for the 1-hour SO₂ NAAQS, in accordance with section 110(1) of the Clean Air Act.

EPA believes that Minnesota's August 29, 2011, request to revise its SIP for FHR Pine Bend satisfies the requirements of section 110(1) of the Clean Air Act. The SIP revision addresses a plant safety issue and includes significant SO₂ reductions which will help the area continue to maintain the current SO₂ standards. Dispersion modeling shows that ambient SO₂ impacts

will decrease under the new operating scenario. The SIP limits and modeling continue to account for limited use of the Merox incinerator in case it is temporarily needed during the transition to the new operating scenario. Actual operations following the shutdown of the Merox incinerator will therefore produce less SO₂ than the modeled amount. For these reasons, EPA believes that approval of the August 29, 2011 SIP revision request will not jeopardize Dakota County's attainment of the SO₂ NAAQS.

III. What Action is EPA Taking?

EPA is approving Minnesota's August 29, 2011, SO₂ SIP revision request for FHR Pine Bend, in Dakota County. This SIP revision addresses an operating change based on a safety issue, and also results in a large decrease in SO₂ emissions at the facility. This SIP revision is not expected to jeopardize attainment of the SO₂ NAAQS in Dakota County.

We are publishing this action without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the proposed rules section of this Federal Register publication, we are publishing a separate document that will serve as the proposal to approve the state plan if relevant adverse written comments are filed. This rule will be effective [INSERT DATE 60 DAYS FROM THE DATE OF PUBLICATION IN THE FEDERAL REGISTER] without further notice

unless we receive relevant adverse written comments by [INSERT DATE 30 DAYS FROM THE DATE OF PUBLICATION IN THE FEDERAL REGISTER]. If we receive such comments, we will withdraw this action before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the proposed action. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. If we do not receive any comments, this action will be effective [INSERT DATE 60 DAYS FROM THE DATE OF PUBLICATION IN THE FEDERAL REGISTER].

IV. Statutory and Executive Order Reviews.

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Clean Air Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and

does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995

(15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and

- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take

effect until 60 days after it is published in the Federal Register. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [FEDERAL REGISTER OFFICE: INSERT DATE 60 DAYS FROM DATE OF PUBLICATION OF THIS DOCUMENT IN THE FEDERAL REGISTER]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's Federal Register, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Sulfur oxides.

Dated: January 17, 2013

Susan Hedman,
Regional Administrator, Region 5.

40 CFR part 52 is amended as follows:

PART 52-- [AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

2. In § 52.1220, the table in paragraph (d) is amended by revising the entry for "Flint Hills Resources, L.P. (formerly Koch Petroleum)" to read as follows:

§ 52.1220 Identification of plan.

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(d) * * *

EPA-APPROVED MINNESOTA SOURCE-SPECIFIC PERMITS

Name of source	Permit Number	State effective date	EPA approval date	Comments
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Flint Hills Resources Pine Bend, LLC		08/29/11	[INSERT THE DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT PAGE NUMBER WHERE THE DOCUMENT BEGINS]	Amendment Nine to Findings and Order
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